

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NORTHSTAR BALLOONS LLC,)	
)	Civil Action No. 14-cv-3500 (NSR)
)	
Plaintiff,)	
)	
v.)	PLAINTIFF'S ANSWER TO
)	COUNTERCLAIMS
AMSCAN INC.,)	
AMSCAN HOLDINGS INC.,)	
ANAGRAM INTERNATIONAL, INC.,)	
PARTY CITY CORPORATION,)	
and XYZ COMPANIES 1 through 10,)	
)	
Defendants.)	
)	

Plaintiff-Counterclaim Defendant Northstar Balloons LLC ("Plaintiff"), as and for its Answer and Affirmative Defenses to the Counterclaims dated June 30, 2014 asserted by Defendants-Counterclaim Plaintiffs Amscan Inc., Amscan Holdings Inc., Anagram International, Inc., and Party City Corporation (D.E. 13), alleges as follows:

Facts Common to All Counts

54. Plaintiff admits defendants' allegation that the '848 Patent contains 576 figures. The '848 Patent is in all other respects a legal document that speaks for itself, and, on that basis, Plaintiff denies the remaining allegations contained in Paragraph 54 of the Counterclaims.

55. The '848 Patent is a legal document that speaks for itself, and, on that basis, Plaintiff denies the allegations contained in Paragraph 55 of the Counterclaims.

56. The '848 Patent is a legal document that speaks for itself, and, on that basis, Plaintiff denies the allegations contained in Paragraph 56 of the Counterclaims.

57. The '848 Patent and Plaintiff's complaint are legal documents that speak for themselves, and, on that basis, Plaintiff denies the allegations contained in Paragraph 57 of the Counterclaims.

58. Plaintiff denies knowledge or information sufficient to form a belief about the truth of defendants' allegation that the figures shown on the chart's top row are "illustrations of Defendants' balloons at issue." Plaintiff denies the remaining allegations contained in Paragraph 58 of the Counterclaims.

59. Plaintiff admits defendants' allegations that "Gary [sic] Kieves . . . is an executive employee of Northstar," and that Mr. Kieves is an inventor of the invention that is covered by the '848 Patent. Plaintiff denies the remaining allegations contained in Paragraph 59 of the Counterclaims.

60. Plaintiff admits defendants' allegation that Garry Kieves was "formally [sic.] an employee and an officer" of Anagram. The '848 Patent is a legal document that speaks for itself, and, on that basis, Plaintiff denies the remaining allegations contained in Paragraph 56 of the Counterclaims.

61. Plaintiff admits that Mr. Kieves was an employee of Anagram from 1977 when he founded Anagram until approximately January 2003. Plaintiff admits that Mr. Kieves is aware of metallic balloons that are manufactured by Anagram and other companies. The remaining allegations contained in Paragraph 61 state legal conclusions to which no response is required.

62. Paragraph 62 states a legal conclusion to which no response is required.

63. Plaintiff admits that it did not provide the Patent Office with information about the balloons that are depicted in Exhibit A of Defendants' Counterclaims. Plaintiff denies the remaining allegations contained in Paragraph 63 of the Counterclaims.

DEFENDANTS' FIRST COUNTERCLAIM

64. Plaintiff repeats its responses to Paragraphs 54 through 63 as if fully set forth herein.

65. Plaintiff denies the allegations contained in Paragraph 65 of the Counterclaims.

66. Plaintiff denies the allegation that "Defendants do not infringe the '848 patent." The remaining allegations contained in Paragraph 66 of the Counterclaims state a legal conclusion to which no response is required.

67. Paragraph 67 of the Counterclaims states a legal conclusion to which no response is required.

68. Paragraph 68 of the Counterclaims states a legal conclusion to which no response is required.

69. Plaintiff denies the allegations contained in Paragraph 69 of the Counterclaims.

70. Plaintiff denies the allegations contained in Paragraph 70 of the Counterclaims.

71. Plaintiff denies the allegations contained in Paragraph 71 of the Counterclaims.

DEFENDANTS' SECOND COUNTERCLAIM

72. Plaintiff repeats its responses to Paragraphs 54 through 71 as if fully set forth herein.

73. Plaintiff denies the allegations contained in Paragraph 73 of the Counterclaims.

74. Paragraph 74 states a legal conclusion to which no response is required. Plaintiff denies the remaining allegations contained in Paragraph 74 of the Counterclaims.

75. Plaintiff denies the allegations contained in Paragraph 75 of the Counterclaims.

76. Plaintiff denies the allegations contained in Paragraph 76 of the Counterclaims.

77. Plaintiff denies the allegations contained in Paragraph 77 of the Counterclaims.

78. Plaintiff denies the allegations contained in Paragraph 78 of the Counterclaims.

79. Plaintiff denies the allegations contained in Paragraph 79 of the Counterclaims.

AFFIRMATIVE DEFENSES

80. First Affirmative Defense. Defendants' Counterclaims fail to state a claim upon which relief can be granted.

81. Second Affirmative Defense. Defendants are not entitled to the relief requested in the Counterclaims, in whole or in part, because they come to court with unclean hands.

82. Third Affirmative Defense. Defendants have misconstrued the scope, coverage and meaning of the '868 Patent.

83. Fourth Affirmative Defense. Plaintiff hereby gives notice that it intends to rely on such other and further defenses as may become available or apparent during discovery in this civil action, and it hereby reserve the right to amend its Answer to assert any such defenses.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment against Defendants, as follows:

- A. Dismissing Defendants' Counterclaims with prejudice.
- B. Awarding to Plaintiff attorneys' fees and costs incurred in connection with this action pursuant to 35 U.S.C. § 285.
- C. Such other and further relief as the Court may deem necessary, just and proper.

Dated: Ossining, NY
July 21, 2014

Respectfully submitted,

COLLEN IP

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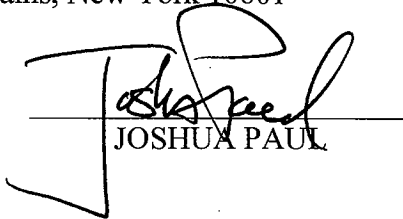
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CERTIFICATE OF SERVICE

Joshua Paul, being a member of the Bar of this Court, certifies that on July 21, 2014 he caused a true and correct copy of the foregoing PLAINTIFF'S ANSWER TO COUNTERCLAIMS to be served by operation of the Court's ECF filing system upon the following attorneys for defendants:

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JOSHUA PAUL

Executed: July 21, 2014